IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.4571 OF 2006

Mahesh Vasant Pawar ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri S.M.Kazi, adv. for the Applicant.
Shri U.V.Nikam, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 13th February, 2007.

P.C.:

1. Heard Mr.Kazi, the learned counsel for the applicant and Mr.Nikam, the learned APP for the State.

2. The applicant, who is husband of the deceased Swati, seeks to be released on bail in Crime No.79 of 2006 for the offences punishable under sections 302, 498A read with Section 34 of the I.P.C.

3. According to prosecution, deceased Swati was married to the present applicant on 26-3-2006. After the marriage, she was being ill-treated by her mother-in-law as also the husband. On 16-8-2006 at about noon time, some quarrel had taken place between Swati and her husband and Swati went towards her husband and poured kerosene on her own person and also threatened to immolate herself. At that stage, her

husband snatched matchstick from her, ignited the same and set her ablaze. Due to this, she suffered burn injuries. Immediately she was taken to Civil Hospital, Ratnagiri where on 21-8-2006 her dying declaration was recorded wherein she stated the above facts. The applicant was arrested and he is in custody since the date of incident itself.

4. The learned counsel for the applicant pointed out that the said Swati was previously married to one Jitendra in the year 2002 and within a few months, she had problems with her husband and mother in law and she had filed regular criminal case no.28 of 2007 for the offence punishable under Section 498A of the I.P.C. After trial, both the accused were acquitted. The Court had not believed the contentions of Swati. It is contended that she had taken divorce from Jitendra before entering into marriage with the present applicant and she had not disclosed this fact before the marriage. The learned counsel also points out that Swati could not pull on well with her first husband and mother-in-law and within a few months she filed criminal case. In the present case also within 4-1/2 months after the marriage, she had problems with her husband and mother-in-law and she attempted to immolate herself. According to him, he has been falsely implicated and

taking into consideration her attitude, it will be difficult to rely on her dying declaration particularly when there is no independent evidence to corroborate her version.

5. On the other hand, the learned APP points out that case is already fixed for trial and Mr.Kazi also confirms that the matter is fixed for trial on 20th February, 2007 itself. Therefore, taking into consideration the nature of the offence, it is expected that trial would come to an end very soon. In such circumstances, I find that it will not desirable to enter into merits of the case and particularly, the contentions raised by Mr.Kazi in this matter. As the trial is to commence soon, I am not inclined to grant bail to the applicant in this case.

6. For the aforesaid reasons, application stands rejected.

(J.H.Bhatia,J.)